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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

10 Plaintiff,

11 v.

12 Chris Paul Snow,

13 Defendant.
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No. CR-18-01796-001-TUC-JGZ (JR)

ORDER

15 Pending before the Court is Defendant's Motion to Limit Impeachment of Defense
16 Witnesses. (Doc. 138.) Defendant seeks to preclude the Government from impeaching two
17 defense witnesses with collateral details and circumstances of their prior convictions. The
18 United States of America filed a response to Defendant's motion. (Doc. 141.) The
19 Government states that it does not intend to introduce details and circumstances of these
20 two witnesses' convictions, but also argues that it should be permitted to impeach one of
21 these witnesses with a prior conviction that is more than ten years old, and to impeach a
22 third witness with a dated conviction. Having reviewed the parties' submissions, the Court
23 rules as follows.

24 **1. Witness LeFleur**

25 Jeffery LaFleur was convicted of child molestation on January 24, 2003 and was
26 sentenced to 68-months of imprisonment. LaFleur was released from incarceration on
27 November 9, 2006.

28 Federal Rule of Evidence 609(b) limits the use of a conviction "if more than 10

1 years have passed since the witness's conviction or release from confinement for it,
2 whichever is later." Under Rule 609(b), evidence of such a conviction is admissible "only
3 if . . . its probative value, supported by specific facts and circumstances, substantially
4 outweighs its prejudicial effect." Fed. R. Evid. 609(b)(1).

5 The Government argues that the "evidence of this witness's felony conviction is
6 highly probative and substantially outweighs any prejudicial effect." The Government also
7 asserts that "witness credibility is central to the trial." The Government fails to point to
8 specific facts and circumstances underlying the conviction that are probative of credibility,
9 and relies solely on the fact of conviction and the length of the term of imprisonment. The
10 Court is not persuaded that LaFleur's seventeen-year-old conviction for child molestation
11 is highly probative of his credibility and that it substantially outweighs any prejudicial
12 effect. Therefore, the Court will preclude the government from impeaching LeFleur's
13 credibility with this conviction, absent LeFleur opening the door to its admission.

14 **2. Witness Quintero**

15 Isidro Quintero was convicted of a domestic violence / disorderly conduct offense
16 on December 4, 2009. Defendant does not contest the admissibility of Quintero's
17 conviction. However, Defendant asserts that the cross-examination of Hendrick "must be
18 confined to only the fact of conviction and not delve into any collateral facts." The
19 Government is in agreement and seeks to introduce evidence of the conviction, the general
20 nature of the offense, and the punishment range for the purpose of impeaching the witness's
21 credibility.

22 "[A]bsent exceptional circumstances, evidence of a prior conviction admitted for
23 impeachment purposes may not include collateral details and circumstances attendant upon
24 the conviction." *United States v. Sine*, 493 F.3d 1021, 1036 n.14 (quoting *United States v.*
25 *Rubio*, 727 F.2d 786, 797 n.5 (9th Cir. 1983)). "Generally, 'only the prior conviction, its
26 general nature, and punishment of felony range [are] fair game for testing'" a witness'
27 credibility. *United States v. Osazuwa*, 564 F.3d 1169, 1175 (9th Cir. 2009) (quoting *United*
28 *States v. Albers*, 93 F.3d 1469, 1480 (10th Cir. 1996)).

1 Accordingly, the Court will allow the Government to impeach Quintero with the
2 prior conviction, its nature, and the term of imprisonment. The Government is precluded
3 from introducing collateral details of Quintero's conviction.

4 **3. Witness Hendrick**

5 Linda Hendrick was convicted of a dangerous drug violation and a drug
6 paraphernalia violation on November 24, 2014. Defendant does not challenge the
7 admissibility of Hendrick's conviction for impeachment purposes but seeks to limit the
8 scope of impeachment to the fact of conviction. For the reasons stated above, the Court
9 concludes the Government may impeach Hendrick with the prior conviction, its nature,
10 and its punishment. *See Osazuwa*, 564 F.3d at 1175.

11 The Government also seeks to impeach Hendrick with an April 19, 1979 conviction
12 for fraud. The Government contends that this conviction involves a dishonest act or false
13 statement by the witness and is therefore admissible under Federal Rule of Evidence
14 609(a)(2), which provides, "for any crime regardless of punishment, the evidence must be
15 admitted if the court can readily determine that establishing the elements of the crime
16 required proving – or the witness's admitting – a dishonest act or false statement."
17 However, "subdivision (b) applies if more than 10 years have passed since the witness's
18 conviction or release from confinement for it, whichever is later." Fed. R. Evid. 609(b);
19 *see United States v. Caudle*, 48 F.3d 433, 435 (9th Cir. 1995) (noting that convictions
20 involving dishonesty are automatically admissible only if they are less than ten years old).
21 Under subdivision (b), evidence of a conviction that is older than ten years is admissible
22 only if "its probative value, supported by specific facts and circumstances, substantially
23 outweighs its prejudicial effect." Fed. R. Evid. 609(b)(1).

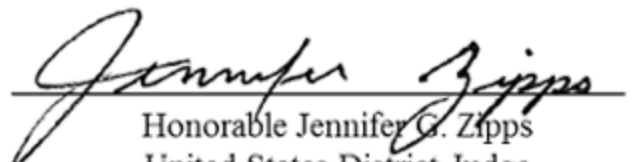
24 The Government argues that because witness credibility is central to the trial and
25 the conviction involves dishonesty, the probative value of the conviction substantially
26 outweighs any prejudicial effect. However, the Government fails to provide the Court with
27 specific facts or circumstances underlying this forty-year-old conviction. Therefore, even
28 though the conviction is for fraud, the Court is not persuaded that its probative value

1 substantially outweighs its prejudicial effect. The Court will preclude the Government from
2 impeaching Hendrick's credibility with this conviction, absent Hendrick opening the door
3 to its admission.

4 Accordingly,

5 **IT IS ORDERED** that Defendant's Motion to Limit Impeachment of Defense
6 Witnesses (Doc. 138) is **GRANTED IN PART AND DENIED IN PART**.

7 Dated this 18th day of August, 2020.

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10 
11 Honorable Jennifer G. Zipp
12 United States District Judge
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